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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Maksim Kunitskii,

10 Petitioner,

11 v.

12 Fred Figueroa,

13 Respondent.
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No. CV-25-01845-PHX-DWL (JFM)

ORDER

15 Petitioner filed this action on May 29, 2025, challenging the President’s invocation
16 of 8 U.S.C. § 212(f) to restrict his entry to the United States and his ability to seek asylum
17 pursuant to 8 C.F.R. § 235.3. (Doc. 1.) The Court ordered expedited briefing on his
18 petition. (Doc. 4.) Although the petition further requested emergency injunctive relief, the
19 Court noted Petitioner did not file a separate motion addressing the relevant standard for
20 seeking injunctive relief. (*Id.*) Petitioner has now filed a request to “stay” his removal
21 pending resolution of his petition. (Doc. 8.) The Court construes the request for a stay as
22 a motion for temporary restraining order (“TRO”) or preliminary injunction.

23 Under Rule 65, a TRO may be issued without notice to the adverse party. More
24 specifically, under Rule 65(b)(1), the Court “may issue a temporary restraining order
25 without written or oral notice to the adverse party or its attorney” if two requirements are
26 met: (1) “specific facts in an affidavit or a verified complaint clearly show that immediate
27 and irreparable injury, loss, or damage will result to the movant before the adverse party
28 can be heard in opposition”; and (2) “the movant’s attorney certifies in writing any efforts


1 made to give notice and the reasons why it should not be required.” The Ninth Circuit has
2 cautioned that “very few circumstances justify the issuance of an ex parte TRO.” *Reno Air*
3 *Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006).

4 Counsel did not certify in writing the efforts made to give notice and why notice
5 should not be required in this instance; the request for a TRO without notice will therefore
6 be denied. The Court will, however, order expedited briefing on the request for TRO with
7 notice or for preliminary injunction.

8 **IT IS ORDERED** construing the Motion to Stay Removal (Doc. 8) as a motion for
9 TRO or motion for preliminary injunction. The request for a TRO without notice is **denied**.
10 The request for a TRO with notice or for preliminary injunction **remains pending**.

11 **IT IS FURTHER ORDERED** Respondents must file a response to the motion for
12 TRO with notice or for preliminary injunction no later than 5:00 p.m. on Friday June 6,
13 2025. Petitioner may file a reply no later than 5:00 p.m. on Monday June 9, 2025.

14 Dated this 3rd day of June, 2025.

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19 Dominic W. Lanza
20 United States District Judge
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